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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,005	10/07/2003	Richard N. Claytor	FRSN001US0	6644
37141	7590	08/04/2006	EXAMINER	
FORTKORT GRETHER & KELTON LLP 9442 N. Capital of Texas Hwy. Arboretum Plaza One, Suite 500 AUSTIN, TX 78759			SUGARMAN, SCOTT J	
		ART UNIT	PAPER NUMBER	
			2873	

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/681,005	CLAYTOR, RICHARD N.
	Examiner Scott J. Sugarman	Art Unit 2873

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- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 01 May 2006.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1-13 and 30-49 is/are allowed.
- 6) Claim(s) 14, 18, 25-29, 50, 51 and 57-61 is/are rejected.
- 7) Claim(s) 15-17, 19-24 and 52-56 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 02 April 2005 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 14, 18, 25-29, 50, 51 and 57-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morimoto (JP 10-142351-A), of record. Morimoto teaches an infrared imaging device having first and second Fresnel lens elements ((2) in Figs. 1 and 6) in optical communication with each other. Morimoto also teaches that the each Fresnel lens functions to condense a ray onto the detector (translation page 18/45; para [0032]). According to the Photonics Dictionary, a condenser lens is by definition, “a single positive lens or group of lenses.” Although it is not specifically stated that the lenses are made of plastic, it would have been obvious to one of ordinary skill in the art to make these lens elements from plastic such as PTFE or PCTE, since most, if not all of the Fresnel lenses used in the field of infrared motion detectors are plastic. The first major surfaces face the image side of the device (see Figs. 1 and 6). Since these lenses operate in the IR portion of the spectrum, they operate in the 3-5 um and 8-14 um of the spectrum. Figs. 1 and 6 also show a housing.

Allowable Subject Matter

Claims 1-13 and 30-49 allowed.

Claims 15-17, 19-24 and 52-56 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance:

The prior art does not teach or suggest an infrared imaging device where the first lens element is adapted to mimic a meniscus asphere correct for conjugates of infinity and for the focal length of the first lens element and where the second lens element acts as a field flattener (independent claim 1); an infrared imaging device where the Fresnel surface has a series of grooves that are convex in cross-section taken along a perpendicular to the second major surface of the lens element (independent claims 30, 37. Regarding the dependent claims, the prior art does not teach or suggest these limitations which are provided as features recited in the independent claims, above. For purposes of clarity, "convex" or "concave" is interpreted to be curved, since this is only what is originally disclosed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

Applicant's arguments filed May 1, 2006 have been fully considered but they are not persuasive. Applicant argues that the lenses of Morimoto do not have to be positive. As shown in the attached translation of Morimoto and in the explanation of the rejection, above, the lenses are condenser lenses and function to condense an infrared ray onto the detector.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott J. Sugarman whose telephone number is (571)272-2340.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky L. Mack can be reached on (571)272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Scott J. Sugarman
Primary Examiner
Art Unit 2873

sjs
July 21, 2006